

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CORRIE HICKSON JOYNER,)	
)	
Petitioner,)	
)	C.A. No. N10M-11-100-MMJ
v.)	
)	
FAMILY COURT – NEW CASTLE)	
COUNTY,)	
)	
Respondent.)	

Submitted: March 21, 2011
Decided: May 18, 2011

On Respondent's Motion to Dismiss/Summary Judgment
Pursuant to Superior Court Civil Rules 12(b)(6) and 56(c)

ORDER

Corrie Hickson Joyner, Petitioner, *Pro Se*

Ryan P. Connell, Esquire, Department of Justice, Attorney for Respondent

JOHNSTON, J.

_____1. Petitioner Corrie Hickson Joyner is a sentenced inmate.

2. On October 9, 2010, Joyner filed a “Petition for Writ of Mandamus,” requesting that the New Castle County Family Court be ordered to provide him with copies of “psychiatric and psychological evaluations ordered by Court.” Joyner alleges that these records are relevant to a pending Rule 61 motion in Superior Court.

3. Joyner filed a Rule 34 request for production of documents with the Family Court. Joyner requested that the Department of Services for Children, Youth and Their Families (DSYCF) turn over any psychological or psychiatric evaluations made of Joyner as a juvenile. He also asked that Family Court turn over psychological or psychiatric records in its possession.

4. Family Court denied Joyner’s Rule 34 application, ruling that Rule 34 is a method by which one party can obtain documents from another party in a Family Court case. Because there was no matter pending before Family Court with respect to Joyner, the Rule 34 request was denied.

5. “In Delaware the law as to mandamus is well settled. The writ is extraordinary and appropriate only when a plaintiff is able to establish a clear legal right to the performance of a non-discretionary duty.”¹ It is a remedial writ,

¹*Darby v. New Castle Gunning Bedford Ed. Ass’n*, 336 A.2d 209, 210 (Del. 1975).

designed to enforce the performance of legal duties. The remedy is extraordinary. If the right is doubtful, or the duty discretionary, or the power to perform the duty wanting or inadequate, or if there is any other specific and adequate legal remedy, the petitioner is not entitled to a writ of mandamus. The petitioner must establish a clear right to the requested relief.²

6. In response to Family Court’s motion to dismiss or for summary judgment, Joyner claims that he has “filed various request [sic] with Family Court and DSCYF.” Joyner attached to his response affidavits executed by his mother and his cousin. The affidavits generally state that these persons had “attempted to secure” psychological and psychiatric evaluations from Family Court and DSCYF. However, neither affidavit, nor Joyner’s response, contain any specific information or documentation describing or verifying such attempts, with the exception of the improper Rule 34 request to Family Court.

7. Joyner has failed to demonstrate a clear right to the issuance of a writ of mandamus. He has not alleged any non-discretionary duty that has been breached. Further, Joyner has not provided substantiation that he has exhausted all other remedies.

²*Id.*

THEREFORE, Respondent's Motion to Dismiss/Summary Judgment
Pursuant to Superior Court Civil Rules 12(b)(6) and 56(c) is hereby **GRANTED**.

This case is hereby DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

The Honorable Mary M. Johnston